

STATE OF INDIANA
IN THE MARION COUNTY CIRCUIT/SUPERIOR COURT
CAUSE NO. _____

STATE OF INDIANA,

Plaintiff,

v.

BLUE LAKE, INC. d/b/a I-70
MOBILE HOME PARK,

Defendant.

**VERIFIED MOTION FOR
EMERGENCY TEMPORARY
RESTRAINING ORDER**

The plaintiff, the State of Indiana, by counsel, under Indiana Trial Rule 65 and Indiana Code § 33-26-1-3, moves this Court to issue a Temporary Restraining Order (“TRO”) against Blue Lake, Inc., doing business as I-70 Mobile Home Park, to protect residents’ property interests and to preserve the status quo until appropriate remedies for the defendants’ unfair actions can be determined.

The State seeks a TRO to stop Blue Lake, Inc. from any of the following actions at or affecting the I-70 Mobile Home Park: closing or otherwise ceasing operation of the I-70 Mobile Home Park, engaging or permitting any excavation to occur, shutting off or otherwise interfering with the provision of utilities to residents, and hindering or obstructing residents’ use and enjoyment of their mobile homes.

This is an emergency matter involving the housing of dozens of families. In support of its Motion, the State asserts the following:

PARTIES, VENUE, AND JURISDICTION

1. The plaintiff, the State of Indiana, is authorized to bring actions under the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-4(c). The State has filed, contemporaneously with this motion, its Complaint against the defendant alleging violations of Indiana's Deceptive Consumer Sales Act.
2. The defendant, Blue Lake, Inc. is an Indiana For Profit Corporation engaged in business in Indiana as an owner and operator of at least one mobile home park. Blue Lake, Inc. has a principal place of business located at 3023 W. Morris St., Indianapolis, Indiana 46241.
3. Venue is proper in Marion County, Indiana under Trial Rule 75.
4. This Court has jurisdiction under Indiana Code §§ 24-5-0.5-4(c) and 34-26-1-1 *et seq.*, and Indiana Trial Rule 65.

FACTUAL ALLEGATIONS

5. Indiana law requires the seller of a mobile home to provide a copy of the title to the mobile home to the purchaser at the time of sale. Ind. Code § 9-17-6-17.
6. Indiana's Deceptive Consumer Sales Act additionally requires suppliers to not engage in unfair, abusive, or deceptive acts in consumer transactions. Ind. Code § 24-6-0.5-3(a).

7. Since at least 1999 and as recently as June 1, 2019, consumers have purchased mobile homes from Blue Lake, Inc. (“Blue Lake”) doing business as I-70 Mobile Home Park.
8. Consumer Tonia Clark purchased a mobile home from Blue Lake on June 1, 2019, made all agreed upon down payments, and did not receive the title to the mobile home from Blue Lake on June 1, 2019 or any date since. A true and accurate copy of the Affidavit of Consumer Tonia Clark is attached and marked as Exhibit A.
9. Consumer Carl Gibson purchased a mobile home from Blue Lake on January 20, 2018, made all agreed upon down payments, and did not receive the title to the mobile home from Blue Lake on January 20, 2018 or any date since. A true and accurate copy of the Affidavit of Consumer Carl Gibson is attached and marked as Exhibit B.
10. Consumer Ronald Hughes, along with Rachel Andrews, purchased a mobile home from Blue Lake on March 4, 2019, made all agreed upon down payments, and did not receive the title to the mobile home from Blue Lake on March 4, 2019 or any date since. A true and accurate copy of the Affidavit of Consumer Ronald Hughes is attached and marked as Exhibit C.
11. Consumer Nancy Williams purchased a mobile home from Blue Lake on May 18, 2018, made all agreed upon down payments, and did not receive the title to the mobile home from Blue Lake on May 18, 2018 or any date since. A

true and accurate copy of the Affidavit of Consumer Nancy Williams is attached and marked as Exhibit D.

12. On or about August 15, 2019, residents were provided with a notice from Blue Lake indicating that the I-70 Mobile Home Park was closing on October 15, 2019. On or before October 4, 2019, another notice was posted at the office building in the I-70 Mobile Home Park telling residents to “move your mobile home” and providing contact info for a local mobile home park. This October 4, 2019 notice also provided that “the deadline is still October 15, 2019.” A true and accurate copy of the Affidavit of Attorney General Analyst Michael Buckman is attached and marked as Exhibit E.
13. Blue Lake has indicated to residents that on or after October 15, 2019 it will be shutting off utilities and otherwise closing down operation of the I-70 Mobile Home Park.
14. Residents must have a mobile home permit issued by the County Treasurer in order to move or sell their mobile home.
15. Without title to their mobile homes, the residents of the I-70 Mobile Home Park are unable to obtain a permit from the Marion County Treasurer to move or sell their mobile homes.
16. Residents who did not receive titles to the mobile homes they purchased from Blue Lake are left with no real choice and will be forced to abandon their homes as they cannot move or sell them without the titles.

LEGAL STANDARD

17. In order to obtain a TRO, a party must prove immediate and irreparable injury.
18. Unlawful activity by a party meets, *per se*, the “immediate and irreparable injury” requirement for issuing a TRO. *See Dept’t. Financial Institutions v. Mega Net Serv.*, 833 N.E.2d 477 (Ind. Ct. App. 2005); *Carson v. Ross*, 509 N.E.2d 239, 241 (Ind. Ct. App. 1987), *trans. denied* (1988). Here, Blue Lake’s unlawful activity is a failure to provide purchasers of mobile homes in the I-70 Mobile Home Park with titles to their mobile homes. In situations involving unlawful activity, the party seeking a TRO need not make a showing of irreparable harm or balance of harms in the plaintiff’s favor. *See L.E. Serv., Inc. v. State Lotery Comm’n of Indiana*, 646 N.E.2d 334 (Ind. Ct. App. 1995), *trans. denied*. Nonetheless, here Blue Lake’s actions constitute irreparable harm, namely that for years, and continuing to the present, consumers are not receiving titles to the mobile homes, rendering them unmovable and unsellable, with residents facing a deadline of October 15, 2019 for the closure of the park that many have called home for years.
19. Blue Lake has violated Indiana law by not providing titles to mobile homes upon the sale of the mobile homes to Indiana consumers.
20. Thus, the State has met the requirements for receiving temporary injunctive relief in the form of a TRO, and the State is likely to succeed on both its

Complaint for Injunction, Restitution, Civil Penalties, and Costs and its Motion for Preliminary Injunction (filed contemporaneously herewith).

21. A TRO is necessary because Blue Lake intends to close down the I-70 Mobile Home Park on October 15, 2019. In at least 6 instances, Blue Lake has failed to provide consumers with titles to their mobile homes, rendering consumers unable to transport and/or sell their mobile homes.
22. Blue Lake has had months, and in many instances, years, during which to transfer title to consumers and has failed to do so.
23. A court order restraining Blue Lake from closing the I-70 Mobile Home Park and maintaining utilities and access for residents is especially imperative because residents are unable to move and/or sell their homes until they receive title to their mobile homes.
24. To meet Indiana Rule of Trial Procedure 65(B)'s notice requirements, the State has delivered notice of its intent to seek a TRO, along with copies of the Motion for TRO, Motion for Preliminary Injunction and Complaint for Injunction, Restitution, Civil Penalties, and Costs to Blue Lake's registered agent, Victoria Luhman. Contemporaneously with this Motion, the State is delivering copies of the Motion for TRO, Motion for Preliminary Injunction and Complaint for Injunction, Restitution, Civil Penalties, and Costs with the Cause Number, Court Information, and State contact information to Blue Lake's registered agent, Victoria Luhman.

25. The State is not required to post a security bond under Indiana Rule of Trial Procedure 65(C).

REQUESTED RELIEF

26. The State asks this Court to enter the attached proposed order granting this Motion and that the Court set a hearing on the State's Motion for Preliminary Injunction within the next ten (10) days.

WHEREFORE, the State asks this Court to enter an order granting the State a TRO enjoining Blue Lake, Inc. from any of the following actions at or affecting the I-70 Mobile Home Park: closing or otherwise ceasing operation of the I-70 Mobile Home Park, engaging or permitting any excavation to occur, shutting off or otherwise interfering with the provision of utilities to residents, and hindering or obstructing residents' use and enjoyment of their mobile homes.

I AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.


Tamara Weaver

Respectfully submitted,

CURTIS T. HILL, JR.
Indiana Attorney General
Attorney No. 13999-20

By: /s/ Tamara Weaver
Tamara Weaver
Deputy Attorney General
Attorney No. 34129-06

Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington Street, 5th Floor
Indianapolis, IN 46204
Telephone: (317) 234-7122
Fax: (317) 232-7979
Tamara.Weaver@atg.in.gov

By: /s/ Erica Sullivan
Erica Sullivan
Deputy Attorney General
Attorney No. 29504-49

Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington Street, 5th Floor
Indianapolis, IN 46204
Telephone: (317) 232-5931
Fax: (317) 232-7979
Erica.Sullivan@atg.in.gov